

HOUSE BILL 474

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HB 1082/00 - JUD

2001 Regular Session
11r0731

By: **Delegates Montague, Menes, Cole, Doory, Grosfeld, Marriott, Rawlings,
Gladden, and Dembrow**

Introduced and read first time: February 2, 2001

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Department of Juvenile Justice - Juvenile Justice System - Standards**

3 FOR the purpose of requiring the Department of Juvenile Justice to adopt regulations
4 that provide standards for certain juvenile detention facilities and for nonsecure
5 placement alternatives; requiring the Department to adopt a code of conduct for
6 personnel of the Department; requiring the Department to require private
7 agencies under contract with the Department to adopt a certain code of conduct
8 for private agency staff; requiring the Department to adopt regulations that
9 require certain facilities to provide certain programs; requiring the Department
10 to develop certain nonsecure alternatives for the placement of certain children;
11 altering the purposes of the Juvenile Causes Subtitle; and generally relating to
12 the Department of Juvenile Justice and the juvenile justice system.

13 BY adding to
14 Article 83C - Juvenile Justice
15 Section 2-103(c)(7), 2-134, and 2-135
16 Annotated Code of Maryland
17 (1998 Replacement Volume and 2000 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article 83C - Juvenile Justice
20 Section 2-118
21 Annotated Code of Maryland
22 (1998 Replacement Volume and 2000 Supplement)

23 BY repealing and reenacting, with amendments,
24 Article - Courts and Judicial Proceedings
25 Section 3-802(a)
26 Annotated Code of Maryland
27 (1998 Replacement Volume and 2000 Supplement)

28 BY repealing and reenacting, without amendments,

1 Article - Courts and Judicial Proceedings
2 Section 3-820(c) and (d)(1) and (2)
3 Annotated Code of Maryland
4 (1998 Replacement Volume and 2000 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
6 MARYLAND, That the Laws of Maryland read as follows:

7 **Article 83C - Juvenile Justice**

8 2-103.

9 (c) (7) THE DEPARTMENT SHALL:

10 (I) ADOPT A CODE OF CONDUCT FOR PERSONNEL OF THE
11 DEPARTMENT; AND

12 (II) REQUIRE PRIVATE AGENCIES UNDER CONTRACT WITH THE
13 DEPARTMENT TO ADOPT A CODE OF CONDUCT FOR PRIVATE AGENCY STAFF THAT IS
14 IN SUBSTANTIAL COMPLIANCE WITH THE CODE OF CONDUCT FOR PERSONNEL OF
15 THE DEPARTMENT.

16 2-118.

17 (a) Each facility provided for in § 2-117 of this article shall operate under the
18 control and general management of the Department.

19 (b) Subject to the provisions of Title 3, Subtitle 8 of the Courts Article, the
20 Department shall:

21 (1) Adopt rules and regulations that set:

22 (i) Policies for admission, transfer, discharge, and aftercare
23 supervision; and

24 (ii) Standards of care, including provisions to administer any early,
25 periodic screening diagnosis and treatment program that the Department approves
26 for establishment under Title 42, § 1396d(a)(4)(B) of the United States Code and to
27 treat appropriately any condition that the screening reveals; and

28 (2) Order any needed changes in the policy, conduct, or management of a
29 facility to provide adequate care for the children and adequate services to the courts.

30 (c) The Department shall adopt regulations applicable to residential facilities
31 it operates that:

32 (1) Prohibit the use of locked door seclusion and restraints as
33 punishment, and describe the circumstances under which locked door seclusion and
34 restraints may be used; and

1 (2) Prohibit abuse of a child.

2 (d) The Department shall develop within each facility special programs that
3 are designed to meet the particular needs of its population.

4 (e) The Department shall [develop and provide within] ADOPT REGULATIONS
5 THAT REQUIRE each facility TO PROVIDE:

6 (1) Educational programs that are designed to meet the particular needs
7 of its population;

8 (2) Alcohol abuse and drug abuse assessment services; [and]

9 (3) Either alcohol abuse and drug abuse referral services or an alcohol
10 abuse and drug abuse treatment program that has been certified in accordance with
11 the requirements of Title 8 of the Health - General Article; AND

12 (4) PROGRAMS THAT ENSURE A SAFE, HUMANE, AND CARING
13 ENVIRONMENT.

14 2-134.

15 (A) THE DEPARTMENT SHALL ADOPT REGULATIONS THAT PROVIDE
16 STANDARDS FOR JUVENILE DETENTION FACILITIES OPERATED BY THE
17 DEPARTMENT AND PRIVATE AGENCIES UNDER CONTRACT WITH THE DEPARTMENT.

18 (B) THE STANDARDS SHALL REFLECT THE CENTRAL PURPOSES OF JUVENILE
19 DETENTION, WHICH ARE TO:

20 (1) PROTECT THE PUBLIC;

21 (2) PROVIDE A SAFE, HUMANE, AND CARING ENVIRONMENT FOR
22 CHILDREN; AND

23 (3) PROVIDE ACCESS TO REQUIRED SERVICES FOR CHILDREN.

24 (C) THE STANDARDS SHALL BE CONSISTENT WITH THIS ARTICLE AND TITLE 3,
25 SUBTITLE 8 OF THE COURTS ARTICLE.

26 (D) THE STANDARDS SHALL INCLUDE PROVISIONS ESTABLISHING:

27 (1) A POLICY THAT ELIMINATES THE UNNECESSARY USE OF DETENTION
28 AND PLACES A PRIORITY ON THE USE OF DIVERSION AND APPROPRIATE NONSECURE
29 ALTERNATIVES;

30 (2) CRITERIA FOR THE PLACEMENT OF A CHILD IN A PARTICULAR
31 JUVENILE DETENTION FACILITY;

32 (3) POPULATION LIMITS FOR EACH JUVENILE DETENTION FACILITY
33 THAT MAY NOT BE EXCEEDED EXCEPT IN EMERGENCY CIRCUMSTANCES DURING
34 WHICH TIME STAFFING RATIOS AND LEVELS OF SERVICES SHALL BE MAINTAINED;

1 (4) SPECIFICATIONS FOR THE ARCHITECTURAL STRUCTURE OF A
2 JUVENILE DETENTION FACILITY;

3 (5) STAFF QUALIFICATIONS, TRAINING, INCLUDING TRAINING IN
4 RECOGNIZING AND REPORTING CHILD ABUSE AND NEGLECT, AND THE RATIO OF
5 STAFF TO CHILDREN IN A JUVENILE DETENTION FACILITY;

6 (6) THE RIGHTS OF CHILDREN IN A JUVENILE DETENTION FACILITY,
7 INCLUDING THE RIGHT TO PRIVACY, VISITORS, TELEPHONE USE, AND MAIL
8 DELIVERY;

9 (7) PROHIBITIONS AGAINST THE USE OF EXCESSIVE FORCE AGAINST A
10 CHILD; AND

11 (8) INTERNAL AUDITING AND MONITORING OF PROGRAMS AND
12 FACILITIES IN THE JUVENILE JUSTICE SYSTEM.

13 2-135.

14 THE DEPARTMENT SHALL DEVELOP AND ADOPT REGULATIONS PROVIDING
15 STANDARDS FOR NONSECURE ALTERNATIVES FOR THE PLACEMENT OF A CHILD
16 COMMITTED UNDER § 3-820 OF THE COURTS ARTICLE.

17 **Article - Courts and Judicial Proceedings**

18 3-802.

19 (a) The purposes of this subtitle are:

20 (1) To ensure that the juvenile justice system balances the following
21 objectives for children who have committed delinquent acts:

22 (i) Public safety and the protection of the community;

23 (ii) Accountability of the child to the victim and the community for
24 offenses committed; and

25 (iii) Competency and character development to assist children in
26 becoming responsible and productive members of society;

27 (2) To hold parents of children found to be delinquent responsible for the
28 child's behavior and accountable to the victim and the community;

29 (3) To hold parents of children found to be delinquent or in need of
30 assistance or supervision responsible, where possible, for remedying the
31 circumstances that required the court's intervention;

32 (4) To provide for the care, protection, and wholesome mental and
33 physical development of children coming within the provisions of this subtitle; and to

1 provide for a program of treatment, training, and rehabilitation consistent with the
2 child's best interests and the protection of the public interest;

3 (5) To conserve and strengthen the child's family ties and to separate a
4 child from his parents only when necessary for his welfare or in the interest of public
5 safety;

6 (6) If necessary to remove a child from his home, to secure for him
7 custody, care, and discipline as nearly as possible equivalent to that which should
8 have been given by his parents; [and]

9 (7) TO PROVIDE TO CHILDREN IN STATE CARE AND CUSTODY:

10 (I) A SAFE, HUMANE, AND CARING ENVIRONMENT; AND

11 (II) ACCESS TO REQUIRED SERVICES; AND

12 (8) To provide judicial procedures for carrying out the provisions of this
13 subtitle.

14 3-820.

15 (c) The priorities in making a disposition are consistent with the purposes
16 specified in § 3-802 of this subtitle.

17 (d) (1) In making a disposition on a petition, the court may:

18 (i) Place the child on probation or under supervision in his own
19 home or in the custody or under the guardianship of a relative or other fit person,
20 upon terms the court deems appropriate;

21 (ii) Subject to the provisions of paragraph (2) of this subsection,
22 commit the child to the custody or under the guardianship of the Department of
23 Juvenile Justice, a local department of social services, the Department of Health and
24 Mental Hygiene, or a public or licensed private agency on terms that the court
25 considers appropriate to meet the priorities set forth in § 3-802 of this subtitle,
26 including designation of the type of facility where the child is to be accommodated,
27 until custody or guardianship is terminated with approval of the court or as required
28 under § 3-825 of this subtitle; or

29 (iii) Order the child, parents, guardian, or custodian of the child to
30 participate in rehabilitative services that are in the best interest of the child and the
31 family.

32 (2) A child committed under paragraph (1)(ii) of this subsection may not
33 be accommodated in a facility that has reached budgeted capacity if a bed is available
34 in another comparable facility in the State, unless the placement to the facility that
35 has reached budgeted capacity has been recommended by the Department of Juvenile
36 Justice.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2001.